C. Bell Atlantic's Cost of Money Factor Is Excessive

Bell Atlantic identifies the cost of money factors used in establishing its interconnection rates as ranging from .0801 to .13.[22] In its recent direct case filed in support of its proposed Video Dialtone Service -- a competitive service for which Bell Atlantic has an incentive to minimize service rates -- Bell Atlantic identifies cost of money factors that range from .0794 to .1042.[23] In light of Bell Atlantic's incentive to overstate the cost of bottleneck services sold to its competitors, the Commission should disallow the use of any cost of money factor in excess of the factors used for comparable investment in the Video Dialtone filing.

D. Bell Atlantic's Discriminatory Application of Installation Charges Is Patently Violative of the Commission's Rules

Bell Atlantic's currently effective expanded interconnection tariff contains nonrecurring charges that are patently discriminatory and directly violative of the Commission's rules. Specifically, Bell Atlantic imposes nonrecurring charges for the installation of $720.00 for a DS1 cross-connect and $864.00 for a DS3 cross-connect. In contrast, Bell Atlantic currently charges only $1.00 for the installation of a new DS1 or DS3 special or switched access service purchased by end user customers.[24] Of course, such a flagrant discrepancy is unreasonably discriminatory on its face, and also contravenes the

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[22] Bell Atlantic Direct Case, Exhibit 2, p. 1.

[23] Amendment to The Bell Atlantic Telephone Companies Tariff FCC No. 10, Transmittal Nos. 741, 786 Amended; Bell Atlantic Direct Case, Attachment Pre(1), at Workpaper 5-2, Workpaper 5-12, & Annual Cost Factors (page not numbered) (filed October 26, 1995).

[24] *Compare* Bell Atlantic Tariff F.C.C. No. 1, page 969.1 *with* pages 478 and 478.1.

Commission's express prohibition against LECs applying nonrecurring charges in a manner that discriminates against interconnected competitors. The Commission should order Bell Atlantic to cure the discrepancy immediately, and to reimburse interconnectors, with interest, for all nonrecurring installation charges in excess of $1.00, that were paid after the establishment of the $1.00 NRCs for DS1 and DS3 special and switched access services.

VI. LEC TERMS, CONDITIONS AND PRACTICES ARE UNREASONABLE

A. SWB's Practice of Requiring Receipt of NRC Payments Before Turning Up Service for Collocators Is Unreasonable

MFS urges the Commission to find unreasonable a discriminatory billing practice in which SWB engages. This practice does not involve a tariffed provision that is unreasonable *per se*, but rather, SWB's interpretation of its tariff that imposes a discriminatory and anticompetitive burden on interconnectors. Specifically, SWB requires that it receive full payment of all nonrecurring charges before turning up a new expanded interconnection arrangement or provisioning cross-connected circuits to existing interconnection arrangements.

This practice is unreasonable because it departs from standard industry practice and the way SWB treats its end user customers. For special and switched end user services, SWB -- like all other LECs -- submits bills for NRCs that are payable in 30 days, and turns up service upon issuance of the bill, not upon receipt of payment. For MFS, however, SWB refuses to turn up a new service until it has the check for the full amount of NRCs in hand.

This practice is more than a simple annoyance -- it has caused MFS significant delay in the provisioning of essential services and facilities, and increases MFS' transaction costs. Rather than process SWB bills along with other vendor bills in the normal course of business, MFS must order its accounting department to accord expedited treatment to SWB interconnection bills in order to avoid additional delay of its interconnection requests. Even when such effort is expended, however, MFS experiences a significant delay in the provisioning of its interconnection requests. SWB has no justification for this harassing, dilatory and discriminatory practice, and MFS urges the Commission to find it unlawful.

B. The Lack of Clarity in The LEC's Training Provisions Permits Rate Gouging and Must Be Corrected

MFS urges the Commission to impose restrictions on LEC training practices that unreasonably inflate the cost of expanded interconnection. Specifically, MFS is concerned that LECs may require the training of excessive numbers of technicians, or may "gold plate" their training requirements, providing unnecessary training arrangements that serve only to increase an interconnector's cost.

In order to eliminate excessive training costs, the Commission should find that the training of any more than three technicians per LEC central office is excessive. This practice has already been adopted by U S WEST,[25] and demonstrates the reasonable maximum number of technicians that need to be trained to provide effective service to interconnectors.

In addition, the Commission should ensure that CAPs are permitted to enjoy the benefits of any cost savings that they are able to obtain from vendors. Most significantly, many equipment manufacturers provide *free* training on their equipment for significant

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[25] U S WEST Direct Case at 24-26, 28-30.

purchases. Clearly, it would be unreasonable to allow a LEC to arrange for paid training if free training was available.

Similarly, many vendors are willing to provide training at the customer's location -- in this case the LEC central office.[26] Such provisions would eliminate significant travel expenses, and would reduce the number of technician labor hours that the interconnector would have to pay. In addition, there are different levels of training available, and the interconnector should be permitted to establish the appropriate level of training that is required of the technicians that will be servicing the interconnector's equipment.

All of these issues can be resolved neatly, and with a minimum of Commission oversight, if the Commission simply establishes the interconnector's right to make all necessary training arrangements. If the interconnector is able to contract directly with the vendor or other training entity, the interconnector may obtain free or discounted training, if available, limit travel expenses, and set the curriculum and scope of the training. This will not only empower interconnectors to control their training costs, it will relieve the LECs of the administrative burden of making the training arrangements. Moreover, this approach is supported by Bell Atlantic.[27] The interconnectors will, of course, schedule training at times and in a manner that is not disruptive of the LEC technician's regular duties. MFS therefore urges the Commission to establish a limit of three technicians per central office, and to

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[26] See Bell Atlantic Direct Case at 8.

[27] Bell Atlantic Direct Case at 8.

ascertain that interconnectors have the ability to arrange the most favorable training rates and terms available to them.

C. LEC Refusals to Tariff Provisioning and Repair Intervals Is Unreasonable

In their direct cases, most LECs urged the Commission not to require additional reporting requirements for installation, maintenance and repair intervals, claiming that such tariffed provisions are unnecessary and overly burdensome.[28] MFS completely disagrees with such blatant attempts by these LECs to escape the detection of serious problems, such as unacceptable delays and improper repairs, in LEC provisioning of virtual collocation services. By way of example, MFS refers to several instances over the past year in which U S WEST failed to respond in a reasonably timely manner to MFS' requests for collocation.

For instance, MFS submitted requests for collocation in two of U S WEST's central offices in the Seattle, Washington area on January 24, 1995 and filed requests for five additional central offices in the Seattle area on February 1, 1995. To date, despite MFS' attempts to expedite these arrangements, none of these interconnection arrangements is yet up

[28] *Direct Case of U S WEST* at 35 (stating that LECs should not be required to provide specific information in their tariffs with respect to repair and maintenance intervals, because "[s]uch a requirement would be unduly burdensome . . ."); *Direct Case of SWB* at 33 (claiming that "[i]t is unreasonable to require LECs to expend the time and resources required to provide mandated virtual collocation tariffed maintenance and repair intervals"); *Direct Case of BellSouth* at 14-15 (asserting that because installation intervals "[w]ill be determined through negotiation between CAPs and equipment vendors . . . BellSouth does not believe that collocators would benefit from tariff provisions incorporating the above terms"); *Direct Case of GTE* at 21 (choosing to use standard internal guidelines for installation of termination equipment); *Direct Case of Ameritech* at 20-21 (insisting that requiring such tariff provisions "[w]ould not be reasonable, nor are they necessary" because they "[c]ould inhibit Ameritech's ability to serve the needs of all its customers by restricting the flexibility of the LECs to adapt to the needs of a given situation").

and running. MFS has experienced similarly unacceptable delays in the provisioning of collocation services from other LECs, as well as delays in the provisioning of cross-connected circuits, and in repair response time.

These experiences by MFS clearly demonstrate an overwhelming need for more detailed performance reports by those LECs providing interconnection arrangements. Requiring tariffed provisions of installation, maintenance and repair intervals is the only way to ensure that interconnectors will be protected from unacceptable LEC delay and unreasonable LEC performance standards.

D. The Commission Should Confirm that No Charges May Be Applied For Collocation Unless They Are Enumerated In the LEC's Tariff

SWB recently informed MFS that, in order to obtain interconnection in a central office in Houston, Texas, MFS will have to pay an additional, untariffed fee of $10,200.00. The letter announcing the new charge is appended as Attachment A. SWB argues that the cost is necessary to build new entrance conduit into the office.

Of course, the announcement of an untariffed, "surprise" $10,000 additional charge to obtain interconnection is unlawful and unreasonable on its face, and must be rejected by the Commission. MFS is concerned, however, that SWB is likely to invent similar surprise charges in the future. Even if the charges are wholly without merit and are ultimately rejected by the Commission, they may be used by SWB to delay the collocation process by months. To prevent such dilatory and harassing tactics, the Commission should make clear that LECs will not be allowed to impose such non-tariffed charges, and in no case may refuse to process an interconnection request in cases where such charges are in dispute.

VII. CONCLUSION

For the foregoing reasons, MFS respectfully requests that the Commission require the LECs to amend their virtual interconnection tariffs in accordance with the discussion contained herein.

Respectfully submitted,

Andrew D. Lipman

Andrew D. Lipman
Jonathan E. Canis

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(202) 424-7709

Dated: November 9, 1995

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CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of November 1995, copies of the foregoing MFS COMMUNICATIONS COMPANY, INC. OPPOSITION TO DIRECT CASES, CC Docket 94-97, Phase II, were sent via Hand-Delivery* or First-Class Mail, U.S. postage prepaid, to all parties of record.

Sonja L. Sykes-Minor

ATTACHMENT A

SWB Letter Announcing Untariffed Charges

Southwestern Bell Telephone

"The One to Call On".

November 2, 1995

MFS Communications, Inc
Bob McCausland, Director-Colocation/Unbundled Loops
999 Oakmont Plaza Drive, Suite 400
Westmont, IL 60559-5516

Dear Mr. McCausland:

This letter is to inform you there will be additional charges, above and beyond the charges quoted, applicable for MFS's virtual collocation request for the Houston National central office. SWBT will need to place 4 inch PVC conduits at two entrance manhole locations on West Lane Dr. serving the National Central Office. The estimated charges are $10,200.00 for this Custom Work.

Attached is an SW-8057, Estimate of Cost for Custom Work, indicating the applicable charges and work to be performed. Please approve the proposed charges by signing and dating Part III of the attached SW-8057.

This form will need to be sent with your firm order for the National Central Office. The actual cost will be billed to MFS after the work is complete. Therefore, this estimate of charges should not be included in your first 50% payment.

If you have questions concerning this Estimate of Cost for Custom Work, please contact your Regional Marketing Account Manager, Hope Harbeck at 214 464-8330, or your ICSC Manager, Laura Boone at 214 464-5496.

Sincerely,

Laura K. Boone

Laura K. Boone
Manager-Interexchange
Customer Services Center

Attachment

CC: Regional Marketing-Hope Harbeck
CBIC Manager-Linda Ross

Orig rc'd 11-7-95

NOV-07-1995 16:18 FROM MFS COMMUNICATIONS TO 12024247645 P.03

FROM ONE1 SW ENG, HOUSTON (FRI) 10. 13' 95 15:47 NO. 3560404726 P 2

OCT 12 '95 12:49

214 464 0515 PAGE.002

Southwestern Bell Telephone

SW-2057 (Rev. 2-87) Ref: O.P. 46, PART 15

Retention Period: 3 Years

REQUEST FOR ESTIMATE OF COST AND AUTHORITY FOR CUSTOM WORK

#44

PART I

SERIAL NO. ____

Request For Estimate Of Cost ☒ Exchange ____

Authorization For Custom Work ☐ Collection Center HOUSTON

1. Name of Applicant MFS of HOUSTON, INC Phone 713 236-9637
   Name of Applicant's Representative RALAND K. FREUND Phone 713 236-9637
2. Billing Address: Street 600 TRAVIS, STE 1950
   City HOUSTON, TX 77002 State TX Zip 77002
3. Location and Description of Work PLACE 4" PVC CONDUITS AT TWO ENTRANCE MANHOLE LOCATIONS ON WEST LANE SERVING THE NATIONAL CENTRAL OFFICE.

See Reverse ☐

4. Date Customer Requests Work Completed ____ Tax Exempt ____ No ____ Yes
5. Prepared By Donna McBrayer (Print) Phone 214 464-9842 Address OBP, 28th FLR, DLS, TX 75202
6. Signature [signature] Date 10/12/95 Phone 214 464-5496
   Title: Mgr ICSC

PART II

RCD: 56302527Q

7. Engineering And Construction Charges	$10,200.00	15. Work To Be Done
8. Contribution Factor at ____ %		CONTRACT: PLACING 7,800
9. Cost of Money ____ days @ ____		INSPECTION 20 @ 45 900
		ENG TIME 20 @ 75 1,500
10. State Tax ____ %		
11. County Tax (____) ____ %		TOTAL 10,200
12. Local Tax (____) ____ %		
13. Transportation Tax (Texas Only) ____ %		
14. Total Estimated Costs	$10,200.00	

16. Lead Time (In Days) To Establish Due Date 60 See Reverse ☐
17. Remarks PLACE ONE 4" CONDUIT AT MH 8322 & MH 7465 FOR ENTRANCE TO HA CO
18. Prepared By PETER THOMPSON (Print) Phone 975-2560 Address 9051 PARK WEST, IR.
19. Signature [signature] Date 10/13/95 Phone 713 975-2560
   Title: MANAGER- MANAGER-ENGINEERING DESIGN

PART III

Applicant Has Furnished Letter or Contract to Pay For Work ____ Yes ____ No. Applicant's Verbal Agreement to Pay For Work Has Been Approved By The Manager-BSC/REC ____ Yes ____ No. It Is Satisfactory to Proceed With The Work ____ Yes ____ No.

20. Contract Price ☐ Of $ ____ Actual Cost ☐ Maximum Tariff Charge Of $ ____
21. Advance Payment Received $ ____ Bill After Completion Of Work ☐
   On A Preliminary Basis ☐ (Describe) ____

If Work Is Contract Price and Estimated Under $5000, Billing May Be Regular Or Special Bill Initiated By B/RED.
If Work Is Contract Price and Estimated Over $5000, Or If Work Is Actual Cost (Any Estimate), Billing Must Be Special Bill Initiated Via Engineering.
If Work Is NONREGULATED, Billing Will Be Initiated By Marketing. Work Will Be Authorized On KCO ____

22. Special Bill ☐ Regular Bill ☐
23. Remarks ____
24. Prepared By ____ (Print) Phone ____ Address ____
25. Signature X ____ Date __/__/__ Phone X ____
   Title: ____

PART IV

Upon Completion of Work, Sign and Return A Copy To The Originating Manager (Name And Address From Part 1)

26. Completion Date __/__/__ Signature ____ Phone ____
   Title:

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** TOTAL PAGE.002 **

TOTAL P.03

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of November 1995, copies of the foregoing ERRATUM and corrected version of the MFS COMMUNICATIONS COMPANY, INC. OPPOSITION TO DIRECT CASES, CC Docket 94-97, Phase II, were sent via Hand-Delivery* or First-Class Mail, U.S. postage prepaid, to the parties on the attached service list.

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Sonja L. Sykes-Minor

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